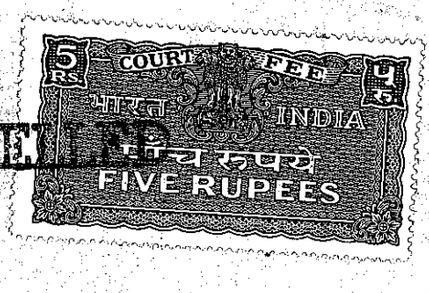

CANCELLED

(3)

(1)

of 152

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

C. R. No. 59 /2003

CIVIL REVISION U/S. 115 OF C.P.C.

APPLICANTS/ PLAINTIFFS :

1. Basant kumar, aged about 70 years S/o. Deendayal Tamrkar,
2. Sudama Prasad, aged about 67 years S/o. Late Toman Lal Tamrkar
3. Balkishan, aged about 54 years S/o. Late Toman Lal Tamrkar

All R/o. Vill. Sankari, Tah. Gunderdehi Distt. Durg

P. R. No. 14/6/03
Presented by Shri Bhawsar Dewangan
dated 17.01.03

VERSUS

NON-APPLICANTS/ DEFENDANTS :

R 1. Shri Kheduram, aged about 73 years S/o. Late Toman Lal Tamrkar

R 2. Shri Gulab Chand, aged about 49 yers S/o. Kheduram Tamrkar

R 3. Subhash Chand, aged about 46 yers S/o. Kheduram Tamrkar

Non-Applicant No. 1 to 3 R/o. Vill. Sankari, Tah. Gunderdehi Distt. Durg

R 4. Keshri Chand, aged about 43 years S/o. Kheduram Tamrkar R/o. Vill. Sankari, Tah. Gunderdehi Distt. Durg, Present Add. Dalli-Rajhara, Distt. Durg

5. The State of Chhattisgarh Through The Collector District Durg

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17/1/03
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(4) (2)

AGAINST THE ORDER DATED 02.08.2002 PASSED IN C.S.NO. 192-A/99 BY THE FIRST CIVIL JUDGE CLASS-II DURG PARTLY ALLOWING AN APPLICATION U/O. 23 RULE 1 OF C.P.C.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक C.R. No. 59 सन् 2003

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	02/02/2007 Shri Ratan Pusty, counsel for the applicants. Shri V.A. Goverdhan, counsel for the respondents No. 1 to 4. Shri G.D. Vaswani, Govt. Advocate for the State/respondent No. 5. Heard. The applicants are aggrieved by order dated 2.8.2002 passed by First Civil Judge, Class-II, Durg in Civil Suit No. 192-A/1999. The applicants/plaintiffs filed an application under Order 23 Rule 1(3) of C.P.C. stating that in the situation prevailing many amendments were necessitated in the plaint and prayed for seeking permission to withdraw the Civil Suit with liberty to file a separate suit if necessary. By the impugned order, learned First Civil Judge, Class-II, Durg while refusing the liberty to file a Civil Suit on the same cause of action ordered return of the plaint to the plaintiffs. The impugned order is patently illegal since the prayer of the plaintiffs could either be allowed or rejected in toto. In this view of the matter, the impugned order is set aside. The learned First Civil Judge, Class-II, Durg shall re-consider the application filed by the plaintiffs under Order 23 Rule 1 (3) of C.P.C. and pass appropriate orders in accordance with law. In view of above, I.A. No. 4149/2006 for out of turn hearing stands disposed of. C.C. as per rules. Sd/- Dilip Raosaheb Deshmukh Judge	

Kvr

(पीछे देखिये)